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TO RUEHC/SECSTATE WASHDC PRIORITY 2300
INFO RUEHZM/GULF COOPERATION COUNCIL COLLECTIVE PRIORITY
RUCPDOC/DEPT OF COMMERCE WASHDC PRIORITY
RUEHRC/DEPT OF AGRICULTURE WASHDC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY
RHFJUSC/US CUSTOMS SERVICE WASHDC PRIORITY

UNCLAS RIYADH 000075

SENSITIVE
SIPDIS

STATE PASS TO USTR FOR CHRIS WILSON, JASON BUNTIN
STATE PASS TO DOC FOR STEVEN GARRETT, TOM SAMS, CHERIE
LOUSTANAU, MICHAEL ROGERS, AND ANDREA CORNWELL
STATE FOR NEA/ARP, EB/TPP (BTA AND IPE), E FOR U/S ROBERT
HORMATS

E.O. 12958: N/A

TAGS: [ETRD](#) [KIPR](#) [ECON](#) [EINV](#) [PREL](#) [SA](#)

SUBJECT: FIRST EVER COPYRIGHT CASE REFERRED FOR DETERRENT
SENTENCING, SEVERAL EMR APPLICATIONS BEING PROCESSED

REF: A. RIYADH 524
[B.](#) RIYADH 575
[C.](#) RIYADH 789
[D.](#) RIYADH 793
[E.](#) RIYADH 982
[F.](#) JEDDAH 297
[G.](#) RIYADH 1202
[H.](#) RIYADH 1366
[I.](#) RIYADH 1375
[J.](#) RIYADH 1423
[K.](#) RIYADH 1425
[L.](#) RIYADH 1426
[M.](#) RIYADH 1441
[N.](#) RIYADH 1459
[O.](#) RIYADH 1493
[P.](#) RIYADH 1543
[Q.](#) RIYADH 1544
[R.](#) RIYADH 1550
[S.](#) RIYADH 1572
[T.](#) RIYADH 1626

Summary

[11.](#) (SBU) On January 5, Minister of Culture and Information Khoja referred the first-ever copyright violation case to the Board of Grievances (BOG), Saudi Arabia's tribunal for commercial dispute resolution. The Ministry's Violations Review Committee (VRC) recommended the Board fine the repeat offender 150,000 Saudi riyals (USD 40,000) and sentence him to 15 days of imprisonment. The VRC is actively pursuing a second case for referral to the Board, and is working with the police to complete the necessary judicial process. Local industry representatives expect that this second case will be referred to the BOG by the end of January. The Ministry of Commerce submitted a copy of Exclusive Marketing Rights (EMR) announcement to the official gazette January 11, and will place an announcement of the procedures for companies to follow to obtain protection under the EMR on its website by January 13. The Ministry of Commerce also reported that KACST has received "several" EMR applications and is actively processing them. Industry representatives said the EMR application process is straightforward, and they estimate it will be feasible to file applications for all of the 50 to 70 pharmaceutical products likely to benefit from the EMR before the March 2010 deadline. The Board of Grievances referral and active processing of EMR applications addresses the two

conditions for removal from the 301 Watch List determined by the Out-of-Cycle Review Committee on December 22. Post strongly recommends Saudi Arabia be removed from the Watch List during the January 21 Committee meeting.

First ever copyright case referred to Board of Grievances

¶12. (SBU) Minister of Culture and Information Khoja referred the first-ever copyright violation case to the Board of Grievances, Saudi Arabia's tribunal for commercial dispute resolution, for deterrent sentencing on January 5. The Ministry's Violations Review Committee (VRC) recommended the Board fine the repeat offender 150,000 Saudi riyals (USD 40,000) and sentence him to 15 days of imprisonment (Note: this is at least the second fine that the VRC has imposed on this company. End note). Deputy Minister of Culture and Information Al-Hazzaa told Econoff the Ministry would announce the referral in several publications. Al-Hazzaa also expressed his Ministry's hope that the referral address copyright industry concerns regarding IPR enforcement in Saudi Arabia.

¶13. (SBU) The referred copyright case is one of two cases pending referral in the VRC. Saudi IPR Committee Chairman Mohammad Al-Aiyash told Econoffs January 12 the Ministry was working hard to complete the judicial process to refer the second case. The suspected pirate in the second case has not responded to the VRC's requests for a statement, a necessary step in the judicial process which, if overlooked, would jeopardize the Board of Grievances' acceptance of the referral. The Ministry has asked the police to help secure

the required statement from the suspect, he said. Al-Aiyash assured Econoffs the case was "still hot," and simply needed time to complete the necessary due diligence for a solid referral to the Board. Al-Aiyash stressed that the SAG wants to make sure the BOG accepts the first several copyright violation referrals to create a good precedent, which will help deter other violators. For that reason, the SAG is being careful not to miss any procedural steps. Local industry representatives are following this case carefully, and expect that the procedures will be completed in the coming week, allowing this second case to be referred to the BOG by the end of January.

Several Exclusive Marketing Rights applications being processed

¶14. (SBU) Al-Aiyash shared a hard copy of the Exclusive Marketing Rights (EMR) announcement with Econoffs, which he said had been submitted to the official gazette January 11, and would appear on the Ministry of Commerce and Industry's website by January 13. An industry representative said the gazette would likely publish the announcement in its January 17 issue. King Abdullah approved the mechanism to protect EMR on September 30, and the Ministry of Commerce and Industry, General Department of Industrial Property at King Abdulaziz City for Science and Technology (KACST), and Saudi Food and Drug Authority (SFDA) immediately developed a procedure for implementation and began accepting applications. Al-Aiyash told Econoffs January 11 that KACST had received "several" EMR applications and was actively processing the applications. The EMR announcement indicates all EMR applications must be submitted within six months from the date of the King's approval, or by the end of March 2010. Al-Aiyash said once KACST sends approved applications to the SFDA, SFDA has already committed that there will be no additional processing required, and it will immediately grant companies their marketing rights.

¶15. (SBU) A representative for several pharmaceutical companies told Econoff January 11 that the March 2010 application window was reasonable for the 50 to 70 pharmaceuticals likely to apply for EMR protection. The representative said he had filed two applications to date, and expected to file another two applications by January 13.

The representative said the two pending applications were initially rejected by KACST, but he immediately notified IPR Chairman Al-Aiyash who resolved the issue and facilitated resubmission within one day. The representative said Al-Aiyash was very helpful, and noted that the EMR application was straightforward and the paperwork involved was not burdensome. Al-Aiyash confirmed this account, and reiterated his commitment to work with companies and their lawyers to resolve any questions or problems immediately.

Comment

¶6. (SBU) The Out-of-Cycle Review Committee met on December 22 and decided to keep Saudi Arabia on the Watch List, pending referral of at least one copyright violation case to the Board of Grievances and some further details on the procedures for American companies to follow to apply for protection under the EMR decree. The January 5 Board of Grievances referral and active processing of EMR applications as confirmed by industry addresses these two issues and demonstrates Saudi commitment to IPR protection. Post strongly recommends Saudi Arabia be removed from the Watch List during the January 21 Committee meeting as the SAG has met the remaining conditions for removal from the Watch List.
SMITH